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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 27, 2000

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VIA COURIER

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Rm-10092

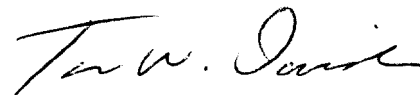
**Re: Petition for Rulemaking to Change Community of License
Channel 11, International Falls, Minnesota**

Dear Ms. Salas:

Enclosed for filing on behalf of Channel 11 License, Inc. ("Channel 11 License"), holder of a construction permit for Channel 11, International Falls, Minnesota (FCC File No. BPCT-960709KR), are an original and four copies of a Petition for Rulemaking ("Petition") to amend the NTSC Table of Allotments, 47 C.F.R. 73,606(b), by changing Channel 11 License's channel allotment from Channel 11, International Falls, Minnesota, to Channel 11, Chisholm, Minnesota.

We understand that no filing fee is required unless the Petition is granted and Channel 11 License submits an application to modify its construction permit. Please direct any questions regarding the enclosed Petition to the undersigned.

Very truly yours,


Tom W. Davidson, Esq.

Enclosures

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.606(b))
Table of Allotments)
Television Broadcast Stations)
(International Falls and)
Chisholm, Minnesota).)

MM Docket No. _____
RM- _____

To: Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau

PETITION FOR RULEMAKING

CHANNEL 11 LICENSE, INC.

AKIN GUMP STRAUSS HAUER & FELD, L.L.P.
1333 New Hampshire Ave., N.W.
Suite 400
Washington, D.C. 20036
(202) 887-4000

Dated: September 27, 2000

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EXECUTIVE SUMMARY

Channel 11 License, Inc. (“Channel 11 License”), holds a permit to construct and operate a new commercial television station on Channel 11 at International Falls, Minnesota (the “Station”). (See FCC File No. BPCT-19960709KR). Channel 11 License hereby petitions the Federal Communications Commission (“FCC” or “Commission”) to amend its NTSC Table of Allotments, 47 C.F.R. § 73.606(b), by changing Channel 11 License’s channel allotment from Channel 11, International Falls, Minnesota, to Channel 11, Chisholm, Minnesota. Channel 11 License further requests that the Commission grant satellite status to the Station as operated at Chisholm.

In order to maximize coverage to areas and populations served by the new Channel 11 facility and more efficiently and effectively provide service, Channel 11 License proposes to move the Station’s unbuilt transmitter site south of International Falls to a site at Meadow Brook Ridge, to change the Station’s community of license from International Falls to Chisholm, Minnesota, and to operate the Station as a satellite of Station KBJR-TV, Channel 6, Superior, Wisconsin-Duluth, Minnesota. The new transmitter at Meadow Brook Ridge will provide city-grade coverage to Chisholm and grade B coverage to International Falls.

The proposed reallocation serves the Commission’s first three television allocation priorities and is in the public interest. Reallocating Channel 11 to Chisholm will result in a preferential arrangement of allotments by providing a first local television transmission service to Chisholm in accordance with the Commission’s television allocation priorities, while not depriving International Falls of local television service. The proposed reallocation also will result in a net increase in service to white areas and populations and a substantial increase in service to gray areas and populations.

Operation of Channel 11 at Chisholm will nearly double the U.S. land area covered by the Station and will provide service to a population six times greater than the population that would be

served by the International Falls allotment. Because a substantial amount of coverage from the proposed Station location in International Falls would be in Canada, the relocation of the transmitter site to Meadow Brook Ridge would more efficiently cover areas and populations in the United States since only a small percentage of the coverage contour under the proposed Chisholm allocation covers Canada.

Channel 11 License proposes to operate Channel 11 at Chisholm as a satellite of Station KBJR-TV, Superior-Duluth. The proposed satellite operation is in the public interest because: (1) no city-grade contour overlap exists between KBJR-TV and the Station; (2) the Station as operated at Chisholm will provide service to an underserved community (i.e., a community to which two or fewer television stations are licensed); and (3) no alternative operator is ready and able to either construct or to purchase and operate the satellite as a full-service station.

For the foregoing reasons, Channel 11 License respectfully requests that the Commission grant the instant petition and amend the Television Table of Allotments, Section 73,606(b) of the Commission's rules, by changing the community of license of Channel 11, International Falls, Minnesota, to Channel 11, Chisholm, Minnesota. Channel 11 License also respectfully requests that the Commission grant satellite status to the Station as operated at Chisholm.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.606(b))	MM Docket No. _____
Table of Allotments)	RM- _____
Television Broadcast Stations)	
(International Falls and)	
Chisholm, Minnesota).)	

To: Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau

PETITION FOR RULEMAKING

I. INTRODUCTION

Channel 11 License, Inc. ("Channel 11 License"), the holder of a permit to construct and operate a new commercial television station on Channel 11 at International Falls, Minnesota (the "Station"), hereby petitions the Federal Communications Commission ("FCC" or "Commission") to amend its NTSC Table of Allotments, 47 C.F.R. § 73.606(b), by changing Channel 11 License's channel allotment from Channel 11, International Falls, Minnesota, to Channel 11, Chisholm, Minnesota. Channel 11 License further requests that the Commission grant satellite status to the Station as operated in Chisholm.¹

¹ Because Channel 11 License cannot file an application for modification of its construction permit with respect to the site proposed herein prior to a final determination by the Commission in the instant rulemaking proceeding, Channel 11 License will undertake to promptly file such application following the Commission's determination and pursuant to the Commission's directive.

The construction permit for NTSC Channel 11, International Falls was issued by the Commission on September 13, 2000 (FCC File No. BPCT-19960709KR) to Channel 11 License. Channel 11 License is owned by RJR Communications, Inc. (60%) and Anthony J. Fant (40%). RJR Communications, Inc. is a wholly-owned subsidiary of Granite Broadcasting Corporation, the ultimate parent corporation of KBJR License, Inc., licensee of KBJR-TV, Channel 6, in Superior, Wisconsin-Duluth, Minnesota. In order to maximize coverage to areas and populations served by the new Channel 11 facility and more efficiently and effectively provide service, Channel 11 License proposes to move the Station's unbuilt transmitter site south of International Falls to a site at Meadow Brook Ridge, to change the Station's community of license from International Falls to Chisholm, Minnesota, and to operate the Station as a satellite of Station KBJR-TV. The new transmitter at Meadow Brook Ridge will provide city-grade coverage to Chisholm and grade B coverage to International Falls.

The proposed reallocation will result in a preferential arrangement of allotments by providing a first local television transmission service to Chisholm in accordance with the Commission's television allocation priorities, while not depriving International Falls of local television service. Reallocating Channel 11 to Chisholm will result in a net increase in service to white areas and populations and will substantially increase the amount of service to gray areas and populations. The proposed Chisholm allotment also will nearly double the U.S. land area covered by the Station and will provide service to a population six times greater than the population that would be served by the International Falls allotment. Because a substantial amount of coverage from the proposed Station location in International Falls would be in Canada, the relocation of the transmitter site to Meadow Brook Ridge would more efficiently cover areas and populations in the United States since only a small percentage of the coverage contour under the proposed Chisholm allocation covers Canada.

II. OPERATION OF CHANNEL 11 IN CHISHOLM IS MUTUALLY EXCLUSIVE WITH ITS CURRENT ALLOTMENT TO INTERNATIONAL FALLS

Under the Commission's rules, a television licensee may file a petition for rulemaking to amend the television Table of Allotments to change its community of license without subjecting the license to competing applications.² To do so, the licensee must demonstrate that the proposed allotment is mutually exclusive with the existing allotment. Allocation of Channel 11 to Chisholm is mutually exclusive with the Station's current Channel 11 allocation at International Falls. The proposed Chisholm station at Meadow Brook Ridge would be located approximately 72.2 kilometers (44.9 miles) from the current site at International Falls, far short of the minimum distance separation required for co-channel television stations.³ Therefore, the two allocations are mutually exclusive. Channel 11 License is thus entitled to file this petition for rulemaking without subjecting its construction permit for Channel 11, International Falls, to competing applications.

² Section 1.420(i) of the Commission's Rules permits the modification of a station authorization to specify a new community of license without affording other interested parties an opportunity to file a competing expression of interest where the proposed allotment would be mutually exclusive with the existing allotment. See 47 C.F.R. § 1.420. See also Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, *Report and Order*, 4 FCC Rcd. 4870, 4873 (1989), recon. granted in part, Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, *Memorandum Opinion and Order*, 5 FCC Rcd. 7094 (1990).

³ The minimum distance separation for co-channel television stations is 304.9 kilometers (189.5 miles) in Zone II. See 47 C.F.R. § 73.610(b)(1).

III. THE PROPOSED REALLOCATION OF CHANNEL 11 TO CHISHOLM WILL ADVANCE THE COMMISSION'S TELEVISION ALLOCATION PRIORITIES BETTER THAN THE CURRENT ALLOCATION

In considering a petition to amend the TV Table of Allotments, the Commission compares the proposed allotment plan to any existing allotments for the communities involved.⁴ The Commission adopts the proposed allotment if the plan would result in a net service benefit, i.e., a preferential arrangement of allotments based on the Commission's television allocation priorities.⁵ The Commission's allocation priorities for television stations are: (1) to provide at least one television service to all parts of the United States; (2) to provide each community with at least one television broadcast station; (3) to provide a choice of at least two television services to all parts of the United States; (4) to provide each community with at least two television broadcast stations; and (5) to assign any remaining channels to communities based on population, geographic location, and the number of television services available to the community from stations located in other communities.⁶ The proposed reallocation of Channel 11 to Chisholm will advance the first three of the Commission's allocation priorities and result in a significant net service benefit.

Specifically, the proposed reallocation will nearly double the U.S. land area covered by the Station and provide service to approximately six times the population that would be served by the current allotment, in part because over one-third of the Grade B contour of the current allotment covers Canada rather than the United States. The permitted site at International Falls will provide coverage to 13,302 square kilometers (U.S. land area only) and 19,976 persons in

⁴ See 4 FCC Rcd. at 4873.

⁵ See *id.*

⁶ See 4 FCC Rcd. at 4876 n.8, *citing* Sixth Report and Order on Television Allocations, 41 FCC 148, 167 (1952).

the United States, while operation of the Station from the proposed Chisholm site at Meadow Brook Ridge will cover 23,122 square kilometers (U.S. land area only) and 122,669 persons in the United States.⁷ Furthermore, the proposed reallocation will serve substantially more gray and white areas and populations than would be served from the current allotment. In addition, as the attached Engineering Exhibit demonstrates, the proposed site will continue to protect all DTV allotments, applications, permits, and licenses and will not adversely affect any potential Class A stations. Therefore, the reallocation is in the public interest and should be adopted by the Commission.

A. Reallocation of Channel 11 to Chisholm will advance the Commission's first allocation priority to provide at least one television service to all parts of the United States.

The Commission's first television allocation priority is to provide at least one television service to all parts of the United States. The reallocation of Channel 11 to Chisholm will serve this primary allocation priority because it will result in a net increase in service to white areas and populations (i.e., areas and populations that do not receive any over-the-air television service). The proposed reallocation will serve white areas and populations not covered by the current International Falls allotment while maintaining coverage of most U.S. land areas and populations that would be covered by an International Falls station if it were constructed and operational. Thus, reallocating Channel 11 to Chisholm will result in a net increase in service to white areas and populations compared to the current allocation at International Falls.

⁷ See Engineering Exhibit prepared by Hammett & Edison, Inc. at 2, attached as Exhibit 1 ("Engineering Exhibit").

The proposed reallocation from International Falls to Chisholm will advance the Commission's first allocation priority because it will result in a net increase in white area and population service. As the attached Engineering Exhibit demonstrates, moving Channel 11 from International Falls to the Meadow Brook Ridge site will provide service within the "gain area" (i.e., the portion of the grade B contour served by the Chisholm allotment not within the grade B contour of the International Falls allotment) to two white areas totaling 3,781 square kilometers and 9,325 persons.⁸ On the other hand, relocating the station from International Falls to the Meadow Brook Ridge site will result in the creation of one white area in the "loss area" (i.e., the portion of the grade B contour served by the International Falls allotment not within the grade B contour of the Chisholm allotment) consisting of 3,582 square kilometers and 8,392 persons.⁹ Thus, the reallocation will result in a net increase in white area service of nearly 200 square kilometers and 933 persons. This increase in service to white areas and populations directly advances the Commission's first allocation priority of providing at least one television service to all parts of the United States.

Notwithstanding the preceding analysis, a white area "gain" and "loss" area comparison is not necessary here because the International Falls allotment is not built and an unbuilt station is not considered an "existing" station for purposes of calculating white area and population.¹⁰ Although the Commission generally considers as part of its analysis of allocation priorities whether the proposal would result in a loss of existing service, particularly where the proposed

⁸ See Engineering Exhibit at 3.

⁹ See Engineering Exhibit at 2.

¹⁰ See Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations (Farmington and Gallup, New Mexico), *Memorandum Opinion and Order*, MM Docket No. 92-81, 1999 WL 1005101 (rel. Nov. 5, 1999) ("Farmington II").

station would provide first local television service to certain areas and populations,¹¹ the areas and populations served by a proposed television station which is not yet operational do not constitute an “existing service” for purposes of applying this factor and determining loss of service.¹² Thus, while the Commission generally is concerned with the loss of service that will occur by reallocating a channel to a new community of license, such a loss is mitigated by the fact that the station is unbuilt and thus not operational, and therefore does not provide a present service upon which the public has come to rely.¹³ For the areas and populations that would be covered by the International Falls allotment but would not be covered by the proposed reallocation, no white area actually would be created by the reallocation because the failure to activate a station at a certain location may perpetuate an existing white area, but will not create one.¹⁴ As a result, when the coverage from the unbuilt International Falls allotment is not considered, the actual white area and population served by the Chisholm reallocation is 12,247 square kilometers and 18,929 persons. The proposed allocation clearly serves the Commission’s first television allocation priority and will serve the public interest.

¹¹ See id. (noting that the Commission is “particularly hesitant to deprive an area of an existing first or second reception service”). See also Farmington at 2360.

¹² See Farmington at 2360 (defining an “existing service” as a “station which has been constructed”).

¹³ See Farmington II at ¶ 2; Farmington at 2360; Amendment of Section 73.606 (b), Table of Allotments, TV Broadcast Stations (Lake Havasu City, Arizona and Laughlin, Nevada), 14 FCC Rcd. 6154 (1999) (notice of proposed rulemaking). See also Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Saltville, Virginia and Jefferson, North Carolina), 10 FCC Rcd. 7578, 7580 (1995) (noting that the Saltville station was not built, and thus the Commission did “not consider its removal from Saltville to represent the same concerns with loss of service that removal of an operating station would represent”).

¹⁴ See Farmington at ¶ 19.

B. Reallocation of Channel 11 to Chisholm will advance the Commission's second allocation priority to provide each community with at least one television broadcast station.

The Commission's second television allocation priority, to provide each community with at least one television broadcast station, will be served by the proposed reallocation. Channel 11 License is proposing to move the only television channel currently allotted to International Falls, a community with no local television transmission service, to Chisholm, another community with no local television transmission service. As will be demonstrated below, a first local television transmission service in Chisholm will better advance the FCC's television allocation priorities than a first local television transmission service in International Falls.

The Commission should allocate Channel 11 to Chisholm, which is located in a larger, more populous county that is growing economically and in population, rather than to International Falls, which is located in a far less populous county comprised primarily of state forest land. International Falls, which has a population of 7,751 persons, is located in Koochiching County, which has a population of only 15,497 persons and was the only county in northeast Minnesota to lose population in 1998.¹⁵ Koochiching County has an unemployment rate of 6.3 percent, out of a total workforce of only 6,310 individuals.¹⁶ Tourism and wood products are the only significant industries in International Falls and Koochiching County.¹⁷

While Chisholm's population of 5,141 persons is slightly smaller than the population of International Falls, the city is surrounded by other similarly sized communities in populous St.

¹⁵ See Minnesota Department of Trade and Economic Development Homepage <<http://www.dted.state.mn.us>> (visited May 8, 2000).

¹⁶ See Minnesota Department of Trade and Economic Development Homepage <<http://www.dted.state.mn.us>> (visited May 8, 2000).

¹⁷ See International Falls Area Chamber of Commerce <<http://www.intlfalls.org/econ.htm>> (visited September 20, 2000).

Louis County, which has a population of 199,103.¹⁸ Chisholm and the nearby cities of Hibbing, Virginia, Eveleth, and others all are considered part of Minnesota's "Iron Range."¹⁹ A television station allotted to Chisholm as proposed by Channel 11 License will provide city grade or Grade A coverage to all of these cities in the Iron Range and grade B coverage to a total of more than 100,000 persons. In comparison, the International Falls allotment would provide grade B coverage to fewer than 20,000 persons.

Unemployment in St. Louis County is only 3.5 percent and population growth in St. Louis County and nearby Itasca County is expected to outpace northeast Minnesota as a whole in the coming years.²⁰ This growth is due at least in part to the establishment of an economic development authority for Chisholm and the surrounding area, and a recent major building boom for the timber industry in this area. Chisholm and the surrounding area now have numerous jobs that are not dependent on the timber industry. Chisholm's employers include a state-of-the-art Northwest Airlines reservation center and the Hibbing Taconite Company, both of which employ over 1,000 people. In addition, the Hibbing Wal-Mart employs over 400 people, a new telemarketing firm is hiring in Virginia, and an industrial park recently has been built in the area.²¹ A weekly newspaper is published in Chisholm, and Hibbing and Virginia each have daily

¹⁸ See Minnesota Department of Trade and Economic Development Homepage <<http://www.dted.state.mn.us>> (visited May 8, 2000).

¹⁹ See Iron Trail Convention and Visitors Bureau Homepage <<http://www.irontrail.org>> (visited September 20, 2000); Iron Range Economic Alliance Homepage <<http://www.irea.org>> (visited September 20, 2000); conversations with Chambers of Commerce staff (Chisholm, Virginia, Hibbing, and Eveleth) (May 2000).

²⁰ See Minnesota Department of Trade and Economic Development Homepage <<http://www.dted.state.mn.us>> (visited May 8, 2000).

²¹ See Minnesota Department of Trade and Economic Development Homepage <<http://www.dted.state.mn.us>> (visited May 8, 2000); conversations with Chambers of Commerce staff (Chisholm, Virginia, Hibbing, and Eveleth) (May 2000).

newspapers. As a city in Minnesota experiencing substantial economic growth, compared with the economic decline of International Falls and the surrounding area, Chisholm is more deserving of the first local television transmission service proposed herein.

C. The Commission's third priority is to provide a choice of at least two television services to all parts of the United States.

The proposed reallocation also serves the Commission's third allocation priority, providing a choice of at least two television services to all parts of the United States. Specifically, reallocating Channel 11 to Chisholm would substantially increase the amount of service to gray area (i.e., area currently served by only one television station). The gray area that would be served by the current International Falls allotment consists of 1,047 persons and 1,055 square kilometers, while the gray area that would be served by the proposed reallocation constitutes 76,665 persons and 7,672 square kilometers.²² As demonstrated in the attached engineering exhibit, no gray area exists in the "loss area" (i.e., area that would be served by the current International Falls allotment but not by the proposed reallocation), and thus a constructed and operational Channel 11 transmitting from International Falls will not serve any gray area that would not be served by the proposed reallocation. On the other hand, in the "gain area" (i.e., area that will be served by the proposed Chisholm allotment but not by the International Falls allotment), 75,618 persons and a land area of 6,617 square kilometers will be served by the proposed Chisholm reallocation.²³ Thus, the proposed reallocation directly serves the

²² See Engineering Exhibit at 3.

²³ See Engineering Exhibit at 3.

Commission's third allocation priority by providing a choice of two television services to a substantially increased number of people.

D. Reallocation of Channel 11 to Chisholm will result in a net benefit to numerous Minnesota communities.

As demonstrated above, the proposed reallocation serves the Commission's first three television allocation priorities and is in the public interest. In addition to evaluating the proposed reallocation under the Commission's allocation priorities, the Commission has stated that it is "best to take into account the totality of the service improvements resulting from a proposed change in the community of license."²⁴ As demonstrated above, the totality of the service improvements resulting from a reallocation to Chisholm is dramatic. A significant number of small but substantial communities all will benefit from the television service, while International Falls, a relatively isolated community, will not lose the service that previously was allocated to it.

Although the station's community of license is Chisholm under the proposed reallocation, in reality the station also will serve Virginia, Eveleth, Hibbing, and various other communities located within the Grade A contour of the proposed reallocation. Thus, for the first time in at least thirty years, these communities will have competition in local broadcasting between the new Channel 11 and WIRT (TV), the Hibbing satellite station of WIDO-TV, the Duluth ABC affiliate.

In addition to the service benefits for the population in and around Chisholm, the proposed reallocation represents a substantially more efficient allocation of U.S. television allocations. Over one-third of the Grade B coverage contour (34.7%) of the International Falls

²⁴ See 4 FCC Rcd. at 4874.

Station covers Canada rather than the United States, where less than five percent of (4.5%) of the Grade B coverage contour of the proposed Chisholm station will cover Canada. As a result, the proposed reallocation of Channel 11 to Chisholm will serve a substantially larger U.S. population and area than the existing allotment to International Falls. The proposed reallocation thus is more efficient and will better serve the public interest and better advance the Commission's Section 307(b) objectives than the current International Falls allocation.

IV. THE STATION SHOULD BE GRANTED SATELLITE STATUS

Channel 11 License additionally requests that the Commission grant the Station satellite status. Channel 11 License proposes to operate the Station in Chisholm as a satellite station of KBJR-TV, Channel 6, Superior-Duluth.²⁵ Pursuant to the Commission's satellite waiver policy, an applicant is entitled to a presumption that its proposed satellite operation is in the public interest if it meets three criteria: (1) no city-grade contour overlap exists between the parent and the satellite; (2) the proposed satellite station will provide service to an underserved area; and (3) no alternative operator is ready and able to either construct or to purchase and operate the satellite as a full-service station.²⁶ The Station meets these three criteria and thus should qualify as a satellite station.

²⁵ The grade B contour of the proposed Channel 11 operation at Chisholm will overlap the grade B contour of Station KBJR-TV. Granite ultimately wholly-owns KBJR-TV and ultimately owns 60% of the Station. Satellite stations are exempt from the Commission's multiple ownership rules. As such, operation of the Station as a satellite of KBJR-TV will not violate the Commission's duopoly rule. *See* Review of the Commission's Regulations Governing Television Broadcasting, MM Docket No. 91-221, Television Satellite Stations Review of Policy and Rules, *Report and Order*, MM Docket No. 87-8, FCC 99-209, 14 FCC Rcd. 12903 (1999).

²⁶ *See* Television Satellite Stations, 6 FCC Rcd. 4212, 4215 (1991).

First, as the attached engineering exhibit demonstrates, no overlap exists between the city grade contours of KBJR-TV, Channel 6, Superior-Duluth, and the Station at its proposed Meadow Brook Ridge location.²⁷ Second, the proposed community of license, Chisholm, Minnesota, constitutes an “underserved” community for purposes of satellite status analysis. A proposed satellite community of license is considered “underserved” if there are two or fewer television stations, including commercial, noncommercial, and satellite stations, already licensed to it.²⁸ Chisholm currently has no stations licensed to it, and even if nearby Hibbing were included as part of the Chisholm “community,” the community would have only one station licensed to it besides the proposed Chisholm station.²⁹ Thus, the proposed satellite station would provide service to an underserved area.

Finally, it is evident that there is no alternative operator ready and able to construct or to purchase and operate the proposed satellite as a full-service station. As the attached report (“BIA Report”) prepared by BIA Consulting, Inc. (“BIA”) demonstrates, the Station in Chisholm cannot be supported as a full-service station and it is highly unlikely that a buyer could be found to operate the station on such a basis.³⁰ BIA has estimated the likely audience and revenue shares the Station could achieve at maturity and the corresponding operating expenses that would be required to operate a full-service station in Chisholm. Based on this estimate, BIA has concluded that the Station would not be able to generate positive operating cash flows. As the

²⁷ See Engineering Exhibit at 3.

²⁸ See Television Satellite Stations, 6 FCC Rcd. 4212, 4215 (1991).

²⁹ See 47 C.F.R. § 73.606(b).

³⁰ See Expert Opinion Regarding the Economic Viability of Channel 11, International Falls, Minnesota, if Operated as a Full-Service TV Station from Chisholm, Minnesota, BIA Consulting, Inc. (August 2000), attached as Exhibit 2 (“BIA Report”).

BIA Report indicates, this conclusion is not surprising, given three factors: (1) the only other station in the area, WIRT, Hibbing, Minnesota, also operates as the satellite of a Duluth-Superior station and has done so since 1967; presumably, if WIRT could be supported as a full-service station in the market, WIRT would have been purchased and operated as a full-service station; (2) a television station in the Duluth-Superior DMA with coverage of Duluth and Superior recently sold for only \$3 million, which suggests that a television station in the Duluth-Superior DMA that does not reach Duluth or Superior, such as Channel 11, would sell for substantially less; and (3) there are five full-power commercial stations already assigned to the Duluth-Superior DMA, and there are no comparable markets that support more than four full-power commercial stations.³¹ Thus, the BIA Report concludes that the Station cannot be supported as a full-service station. This conclusion strongly indicates that no alternative operator would be ready, able, or willing to construct and operate Channel 11, Chisholm, as a full-service station. This conclusion is further bolstered by the fact that in the more than 20 years that the Channel 11 allocation at International Falls has been available, the only two applicants for a construction permit for Channel 11 were KBJR License and Fant Broadcasting Company of Minnesota, Inc. (“Fant Broadcasting”). Pursuant to a Settlement and Merger Agreement entered into by KBJR License and Fant Broadcasting, Granite, the ultimate parent corporation of KBJR License, owns 60% of Channel 11 License and Anthony J. Fant owns 40% of Channel 11 License. Thus, the only two applicants for the Channel 11, International Falls, allotment over the course of 20 years

³¹ Only four DMAs smaller than Duluth-Superior support more than four full-power commercial stations; of those four, two support at least one Spanish-language station and two boast gross television revenues more than \$5 million greater than the estimated television revenues for the Duluth-Superior DMA. As a result, these four markets are not indicative of the Chisholm operation.


together own the entity which hereby petitions the Commission to grant the Station satellite status. Based on the foregoing, the Commission should grant the Station satellite status.

V. CONCLUSION

For the foregoing reasons, Channel 11 License respectfully requests that the Commission grant the instant petition and amend the television Table of Allotments, Section 73.606(b) of the Commission's rules, by changing the community of license of Channel 11, International Falls, Minnesota, to Channel 11, Chisholm, Minnesota. In view of the substantial gain in Grade B and first and second television service resulting from the proposed reallocation, without any corresponding loss of service, reallocation of Channel 11 from International Falls to Chisholm will be in the public interest. Channel 11 License also respectfully requests that the Commission grant the Station satellite status. Upon receipt of authorization to change the community of license and relocate the Station's transmitter site, Channel 11 License will undertake promptly to modify its construction permit, build the specified facilities, and commence operation to serve Chisholm and the surrounding areas.

Respectfully submitted,

CHANNEL 11 LICENSE, INC.

By: 

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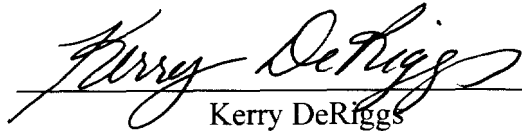
Dated: September 27, 2000

CERTIFICATE OF SERVICE

I, Kerry DeRiggs, an employee of Akin, Gump, Strauss, Hauer & Feld, L.L.P., certify that a copy of the foregoing **Petition for Rulemaking** on behalf of Channel 11 License, Inc., was served via hand delivery on this 27th day of September, 2000, upon the following:

Mr. Roy Stewart
Chief, Mass Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Barbara Kreisman, Esq.
Chief, Video Services Division
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
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Kerry DeRiggs